

Office of Personnel Management

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AUTHORITY: 5 U.S.C. 8347(a) and 8461(g). Subparts B, C, D, E, J, and K also issued under 5 U.S.C. 8345(j)(2) and 8467(b). Sections 838.221, 838.422, and 838.721 also issued under 5 U.S.C. 8347(b).

SOURCE: 57 FR 33574, July 29, 1992, unless otherwise noted.

Subpart A—Court Orders Generally

ORGANIZATION AND STRUCTURE OF REGULATIONS ON COURT ORDERS

§ 838.101 Purpose and scope.

(a)(1) This part regulates the Office of Personnel Management's handling of court orders affecting the Civil Service Retirement System (CSRS) or the Federal Employees Retirement System (FERS), both of which are administered by the Office of Personnel Management (OPM). Generally, OPM must comply with court orders, decrees, or court-approved property settlement agreements in connection with divorces, annulments of marriage, or legal separations of employees, Members, or retirees that award a portion of the former employee's or Member's retirement benefits or a survivor annuity to a former spouse.

(2) In executing court orders under this part, OPM must honor the clear instructions of the court. Instructions must be specific and unambiguous. OPM will not supply missing provisions, interpret ambiguous language, or clarify the court's intent by researching individual State laws. In carrying out the court's instructions, OPM performs purely ministerial actions in accordance with these regulations. Disagreement between the parties concerning the validity or the provisions of any court order must be resolved by the court.

(b) This part prescribes—

(1) The requirements that a court order must meet to be acceptable for processing under this part;

(2) The procedures that a former spouse or child abuse creditor must follow when applying for benefits based on a court order under sections 8341(h), 8345(j), 8445 or 8467 of title 5, United States Code;

(3) The procedures that OPM will follow in honoring court orders and in making payments to the former spouse or child abuse creditor; and

(4) The effect of certain words and phrases commonly used in court orders affecting retirement benefits.

(c)(1) Subparts A through I of this part apply only to court orders received by OPM on or after January 1, 1993.

(2) Subpart J of this part applies only to court orders received by OPM before January 1, 1993.

(3) Subpart K of this part applies only to court orders received by OPM on or after October 14, 1994.

(d) This part has no application to the Thrift Savings Plan described in subchapter III of chapter 84 of title 5, United States Code.

[57 FR 33574, July 29, 1992, as amended at 59 FR 66637, 66638, Dec. 28, 1994]

§ 838.102 Regulatory structure.

(a) This part is organized as follows:

(1) Subpart A contains information and rules of general application to all court orders directed at CSRS or FERS retirement benefits.

(2) Subparts B and C of this part contain information about court orders directed at ongoing employee annuity payments.